
Rule Amendment Recommendations from Ecology's Internal Rule Amendment Committees

1. Fund Structure

A. SRF Interest Rates "Perpetuity" *

- **Problem:** Current interest rates are not keeping up with inflation and, therefore, the SRF may not be in compliance with the Clean Water Act requirement regarding perpetuity.
- **Recommendations:**
 1. Interest rate studies conducted by Alan Dashen & Associates will be considered, which may include the use of the Implicit Price Deflator or other interest rate indices as approved by Ecology's management.
 2. Perpetuity could be defined as charging an interest rate that will result in the SRF portfolio earning 50% of the market rate. This could occur over a period of time that may be 3, 5, or 10 years depending on a market analysis.
 3. Refinance projects may be charged an interest rate at 60% of the market rate.
 - a. Hardship considerations should not be given to refinance projects.

B. Hardship Provisions (including grants and loans) *

- **Problem:** Too many zero-interest loans can negatively impact the long-range health of the SRF. Federal statute requires that special funding consideration be given where there is a demonstrated negative impact on sewer user fees. Currently, hardship SRF loans and hardship Centennial grants are aimed at reducing sewer user fees. Some recipients need more or less hardship money depending on their sewer user fee.
- **Recommendations:**
 1. Use a sliding scale to determine hardship interest rates
 2. Discontinue the mandatory SRF loan to accompany a hardship grant.

C. Timely Use of Funds (what constitutes progress?) *

- **Problem:** Incurring costs does not always equate to progress made, as stated in the current rule, and progress needs to be clearly defined.

- **Recommendation:**

1. The definition and measures of progress will not be limited to costs incurred. However, the specifics will be established in our Guidelines.

2. Allocation of Funds

A. *2/3 Facilities 1/3 Activities (safety net)**

- **Problem:** The financial need for Nonpoint Activities projects is increasing. However, the need for financial hardship communities is also increasing. It is uncertain at this time if Stormwater hardship projects may be funded out of the Activities or Facilities side and this could change the allocation.
- **Recommendations:** Two majority options and one minority option:
 1. Leave the allocation as 2/3 for Facilities and 1/3 for Activities.
 2. Change the allocation to 50% for Facilities and 50% for Activities.
 3. **(Minority opinion):** Allow the application to determine where the funds are spent.

B. *Centennial Ceiling Grant Amount**

- **Problem:** Due to limited funding, Ecology may need to modify the ceiling amounts for projects.
- **Recommendations:**
 1. Activities projects:
 - a. Modify ceiling amounts to:
 - i. Current \$250,000 ceiling should decrease to \$200,000 with either in-kind, interlocal, or cash match.
 - ii. Current \$500,000 ceiling should decrease to a \$400,000 with only cash match (including interlocal cash).
 2. Facilities projects:
 - a. The \$5 million dollar cap for a hardship construction facilities projects companion grant should remain.
 - b. Consider removing the stipulation that no one facility project will receive more than 1/3 of the funding category.

C. *Percent of Grants and Grant Matching Requirements**

- **Problem:** Some recipients have difficulty matching the 25%, while others can afford more.

- **Recommendation:**

1. Consider retaining the current 75% grant and 25% match

3. General Eligibility

A. *Application Evaluation Criteria (new point allocations?)**

- **Problem:** The current rule limits Ecology's discretion changing financial assistance application on responding to emerging needs.

- **Recommendation:**

1. Consider removing the established percentages from the application criteria.

B. *Funding List Cutoff **

- **Problem:** The Joint Legislative Audit Review Committee (JLARC) recommended a minimum point threshold for evaluating projects for funding.

- **Recommendation:**

1. No cut-off recommended.

C. *BMPs on Private Property **

- **Problem:** We have limited financial resources and Ecology needs to make sure that we use public funds on those BMPs that will have the largest water quality benefit.

- **Recommendation:**

1. *Suggested new language using original WAC 173-95A-050 8 (c):* Implementation of best management practices in the riparian zone on private property consisting of revegetation, fence construction, and other water quality BMPs as approved by the Department, and where a public easement or landowner agreement is given by the landowner.

D. *Upland BMPs used as In-Kind Match **

- **Problem:** Some of our applicants and recipients suggested that we consider using upland BMPs as in-kind match for riparian BMP projects.

- **Recommendation:**

1. Do not include this in rule, rather consider this in future policy.

4. Engineering Initiatives

A. *Alternative Contracting (maximum loan amounts)**

- **Problem:** Project costs have increased considerably. Interest rates that are too low on large loan amounts threaten SRF perpetuity.
- **Recommendations:**
 1. Consider suspending the Alternative contracting Pilot Rule for 2008 and incorporating updated rule language in the larger rule revision process
 2. Reinforce that the pilot rule will be consistent with current SRF general rule, with the exception of the deviation in the standard step process for facilities projects.

B. *Step 4 Design/Construct (raising the \$1 million cap) **

- **Problem:** The ceiling amount of \$1 million may be too low to keep up with construction inflation. Also, projects with complete facilities planning face unknown issues that prevent them from quickly moving from design to construction.
- **Recommendations:**
 1. Ceiling amount should be raised to \$5 million (for the total project cost), but they will be loan eligible only.
 2. Special preliminary design report will ensure readiness to proceed and construction costs.
 3. Hardship communities are not eligible for Step 4.

C. *Stormwater (Activities and Facilities) **

- **Problem:** Staff and stakeholders are concerned about the availability and type of financial assistance for activities and facilities projects.
- **Recommendations:**
 1. Activities
 - a. Applicants proposing activities that “directly” satisfy stormwater permit requirements are not eligible for grant funds, unless they qualify for hardship funding.
 - b. Hardship will be determined using the FY06 Phase II grant identification analysis.
 2. Facilities
 - a. Carry the guideline provisions into rule.

D. *Water Reclamation Facilities* *

- **Problem:** Staff and stakeholders are concerned about the level and type of financial assistance available.
- **Recommendations:**
 1. Carry present provisions into rule, so long as projects address a water quality need and are cost effective.
 2. Hardship will be based on 110% of existing need.

E. *Value Engineering* *

- **Problem:** Value engineering is not utilized often enough
- **Recommendation:**
 1. Suggest awarding more points to those applicants who complete value engineering on their own.

5. **General Housekeeping**

A. *Applying “Plain Talk” Principles*

- **Problem:** The Governor’s new Plain Talk executive order requires that we strive to apply Plain Talk principles.
- **Recommendation:**
 1. This will be accomplished after the final rule language is approved by management.

B. *Clarifications on Existing Language*

- **Problem:** There are inconsistencies between the rules and our guidelines and within our rules.
- **Recommendation:**
 1. This task is and will continue to be on-going until the rule is submitted to the Code Reviser. Input is taken from staff and stakeholders.

** See the white papers, committee notes, and the PowerPoint slides for further background information.*